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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,142	09/19/2001	Eiji Kasutani	040373-0309	8365

22428 7590 11/02/2006

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EXAMINER

DUNN, MISHAWN N

ART UNIT PAPER NUMBER

2621

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/955,142	<b>Applicant(s)</b> KASUTANI, EIJI	
	<b>Examiner</b> Mishawn N. Dunn	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/06</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 22, 23, 29, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Hirata (US Pat. No. 6,240,423).

3. Consider claim 22. Hirata teaches an image retrieving apparatus of retrieving an image similar to a predetermined query image out of a subject motion videos for retrieval, comprising: means for calculating a similarity between a frame image of subject motion videos for retrieval and a query image; means for grouping frame images of subject motion videos for retrieval which satisfy a predetermined condition of said similarity; and means for extracting an image similar to a query out of said images which are grouped at every group (col. 6, line 19- col. 7, line 2; figs. 8-11)

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4. Consider claim 23. Hirata teaches the image retrieving apparatus wherein the extracted image out of said frame images which are grouped is the most similar image to a query image (fig. 11).
5. Method claims 29 and 30 are rejected for the same reasons as discussed in the corresponding apparatus claims above.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 24, 26, 31, 33, 38, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata (US Pat. No. 6,240,423) in view of Hori et al. (US Pat. No. 6,795,127).
8. Consider claim 24. Hirata discloses all of the claimed limitations as stated above, except the image retrieving apparatus wherein the frame images of subject motion videos for retrieval are continuous with time.

However, Hori et al. teaches the image retrieving apparatus wherein the frame images of subject motion videos for retrieval are continuous with time (fig. 2).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to modify Hirata by retrieving images that are

continuous with time, in order to make the system more efficient by reducing the search time for similar images.

9. Consider claim 38. Hirata discloses all of the claimed limitations as stated above, except a recording medium on which a program causing a computer to execute methods of image retrieving is stored.

However, Hori et al. teaches a recording medium, on which a program causing a computer to execute methods of image retrieving is stored (col. 11, lines 9-18).

10. Claims 26, 31, 33, and 40 are rejected for the same reasons as discussed in the corresponding apparatus claims above.

11. Claims 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata (US Pat. No. 6,240,423) in view of Official Notice.

12. Consider claim 25. Hirata discloses all of the claimed limitations as stated above, except the image retrieving apparatus wherein said query image is a motion video and a similarity between a frame image of said subject motion videos for retrieval and said query image is calculated from a similarity between said subject motion videos for retrieval and said query image at every frame during a predetermined time length.

The Examiner takes Official Notice that it is well known to one of ordinary skill in the art to set a predetermined time to perform a query function.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to modify Hirata by setting a predetermined time

length to allow calculated the similarity between said subject motion videos for retrieval and said query image, in order to make the system more time efficient.

13. Method claim 32 is rejected for the same reasons as discussed in the corresponding apparatus claims above.

14. Claims 27, 34-37, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata (US Pat. No. 6,240,423) in view of Delp (US Pat. No. 5,949,904).

15. Consider claim 27. Hirata discloses all of the claimed limitations as stated above, except the image retrieving apparatus wherein said similarity is calculated through a use of a frame feature vector which is obtained by applying a frequency conversion and a quantizing processing to an image a sized of which is reduced.

However, Delp teaches calculating said similarity through a use of a frame feature vector which is obtained by applying a frequency conversion and a quantizing processing to an image a sized of which is reduced (col. 3, lines 9-23; fig. 2).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use, to modify Hirata by applying a frequency conversion and a quantizing processing to an image a sized of which is reduced, in order to minimize time for completion of retrieval of an image.

16. Consider claim 41. Hirata discloses all of the claimed limitations as stated above, except a recording medium on which a program causing a computer to execute methods of image retrieving is stored.

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However, Delp teaches a recording medium, on which a program causing a computer to execute methods of image retrieving is stored (col. 6, line 65 – col. 7, line 15; fig. 10).

17. Claims 28, 34-37 and 42 are rejected for the same reasons as discussed in the corresponding apparatus claims above.

18. Claims 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirata (US Pat. No. 6,240,423) in view of Official Notice in further view of Delp (US Pat. No. 5,949,904).

19. Consider claim 39. Hirata discloses all of the claimed limitations as stated above, except a recording medium on which a program causing a computer to execute methods of image retrieving is stored.

However, Delp teaches a recording medium, on which a program causing a computer to execute methods of image retrieving is stored (col. 6, line 65 – col. 7, line 15; fig. 10).

Therefore, it would have been obvious to one with ordinary skill in the art, at the time the invention was made to use, to use a recording medium on which a program causing a computer to execute methods of image retrieving is stored, in order to process the data more efficiently.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

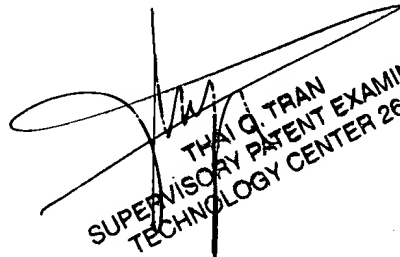
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mishawn N. Dunn whose telephone number is 571-272-7635. The examiner can normally be reached on Monday - Friday 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mishawn Dunn  
January 21, 2006



THAI Q. TRAN  
SUPERVISORY PATENT EXAMINER  
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